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OCA 87-5983
8 December 1987

MEMORANDUM FOR THE RECORD

FROM: [redacted] Legislation Division
Office of Congressional Affairs

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SUBJECT: Briefing on Hatch Act, H.R. 3400 [redacted]

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1. On 3 December 1987, Agency employees briefed staff members of the House and Senate intelligence oversight committees on the impact of the Hatch Act on the Agency. Hugh Price, the Director of Personnel, and [redacted] (also with the Office of Personnel), along with [redacted] of the Office of General Counsel were the briefers. [redacted] and I also attended on behalf of the Office of Congressional Affairs. The staff members present were Charles Battaglia, John Nelson, Keith Hall, and Charlene Packard for the Senate, and Steve Nelson and Calvin Humphrey for the House. [redacted]

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2. Price began the briefing by stating that it was advisory in nature and that the Agency did not wish to suggest anything should happen with regard to the bill, because the Administration is firmly against it. He then went on to state that there is a problem with the perception of employees being involved in partisan politics. The staff members asked exactly what H.R. 3400 does, and [redacted] and I explained the thrust of the bill. [redacted] continued by saying that the presumption is turned from what employees cannot do to what they can do. This creates problems for the Agency with respect to the rehabilitation of its image after the Iran-Contra matter because of the partisan politics involved.

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[redacted] There are also problems pertaining to enforcement in the Special Counsel's office of the Merit Systems Protection Board. There is no problem now because virtually no activity at all is allowed, but with the new law people would be publicly identified with campaigns and allegations of bad fitness reports stemming from political activities would be lodged. [redacted]

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4. Humphrey asked if the Agency had worked with the Post Office and Civil Service Committee. [redacted] explained that he had spoken with staff members of that committee during the drafting stage. They suggested that the Agency not get in front of the "freight train" because of the overwhelming support for the bill.

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5. Battaglia said that the Agency's problems seem to parallel those of other agencies. It was agreed that this was true. [redacted] further explained the perception problem. Hall asked why participation in political activities would cause one to take a certain view more than nonparticipation, when one would be thinking the same thing in both cases. In this respect, Agency personnel are in the same situation as the remainder of the Government. Price said that the fact that people work for the Agency worries people. [redacted]

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6. When asked why the Agency's prepublication review process would not accommodate the problem of an employee using knowledge gained on the job to write a speech or a background paper, [redacted] said that the real problem lay with the Agency's review of these documents. There is some impropriety in such review. [redacted]

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7. Hall said that since there appears that no action will be taken on the bill until Spring, although it has been referred to the Governmental Affairs Committee, the oversight committee can ask during budget hearings whether the DCI or DDCI has any comments on the Hatch Act and then, when told that it poses problems for the Agency, ask on the record for language which would fix the problem. The belief is that the bill will pass the Senate by a wide enough margin to override a veto. Crossover members on the Governmental Affairs Committee are Roth, Cohen and Nunn, and they may well be receptive to the Agency's concerns.

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